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FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING
2020 JAN 27 PM 1:31
MARIA L. LUTINS, CLERK
CASPER

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

Dr. KELLY WEIDENBACH)

Plaintiff,)

vs.)

CASPER-NATRONA COUNTY)
HEALTH DEPARTMENT)

Defendant.)

Civil No. 20-CV-08-SWS

PLAINTIFF'S COMPLAINT PURSUANT TO FEDERAL TORT CLAIMS ACT

COMES NOW Plaintiff and for her Complaint Pursuant to the Federal Equal Pay Act of 1963 against Defendant hereby states and avers as follows:

I. INTRODUCTION

1. The claims herein are brought by Dr. Kelly Weidenbach against Defendant Casper-Natrona County Health Department ("CNCHD") pursuant to the Federal Equal Pay Act of 1963 28 U.S.C. § 206(d) for money damages as compensation for lost wages caused by Defendant's willful violation of the Act by paying Plaintiff Dr. Kelly Weidenbach a lower salary than her male predecessor Robert Harrington.

II. PARTIES, VENUE AND JURISDICTION

Receipt # MS002345
Summons: 2 issued
_____ not issued

2. Plaintiff Dr. Kelly Weidenbach is currently a resident of Parker, Colorado although during her employment for Defendant CNCHD she resided in Casper, Natrona County, Wyoming.

3. Venue is appropriate in the United States District Court for the District of Wyoming because the conduct that forms the basis of this Complaint occurred in the State and District of Wyoming.

4. This action arises out of defendant's protracted and willful violation of the Equal Pay Act when it paid Dr. Weidenbach, a woman a substantially lower salary than Robert Harrington, a man.

5. The United States District Court for the District of Wyoming has jurisdiction over this federal question matter pursuant to 28 USC § 1331 and 29 USC § 216(b).

6. At all times relevant hereto, CNCHD operates a city-county health department under the laws of the state of Wyoming.

7. CNCHD is a city-county governmental entity.

8. The Wyoming Governmental Claims Act, Wyo. Stat. § 1-39-101 *et seq.* may or may not be applicable to this claim.

9. The claim required under Wyo. Stat. § 1-39-113(c) was filed in accordance with the Wyoming Governmental Claims Act.

10. Plaintiff filed the claim in accordance with Wyo. Stat. § 1-39-113(c) on January 16, 2020.

11. The Wyo. Stat. § 1-39-113(c) claim was in compliance with the signature and certification requirements of article 16, section 7 of the Wyoming Constitution.

12. To the extent applicable here, all requirements of the Wyoming Governmental Claims Act are satisfied.

13. All other jurisdictional requirements have been met and this Court has subject matter and *in personam* jurisdiction over this matter.

II. CAUSE OF ACTION: EQUAL PAY ACT

14. Plaintiff hereby restates and realleges all statements set forth in the paragraphs above.

15. At all times relevant hereto, CNCHD was subject to the Federal Equal Pay Act of 1963 28 U.S.C. § 206(d).

16. The Equal Pay Act requires that men and women be given equal pay for equal work in the same establishment.

17. Both Robert Harrington and Plaintiff Dr. Kelly Weidenbach performed the same role as Executive Director for CHCHD.

18. Dr. Kelly Weidenbach's qualifications for the position of Executive director at CNCHD equaled or surpassed Mr. Harrington's.

19. Dr. Kelly Weidenbach was hired December 30, 2013 to replace Mr. Harrington as Executive Director of CHCHD.

20. At the time of hiring, CNCHD paid Dr. Kelly Weidenbach \$7,000.00 per month and at the time of his departure, CHCHD paid Robert Harrington \$10,333.00 per month.

21. Through the duration of her employment with CNCHD, Dr. Kelly Weidenbach exhibited the same -- or greater -- skill, effort and responsibility as Mr. Harrington.

22. In addition to paying Dr. Weidenbach markedly less than Robert Harrington, CNCHD paid her less than the minimum established amount set forth in its salary matrix for the job title Executive Director.

23. Dr. Weidenbach left her employment with CNCHD on November 9 of 2018.

24. At the time of her departure, CNCHD paid Dr. Weidenbach approximately \$9,042 per month.

25. CNCHD violated the Equal Pay Act by paying Dr. Weidenbach less than Robert Harrington.

26. CNCHD knew or showed reckless disregard about whether its unequal pay to Dr. Weidenbach was prohibited by the Equal Pay Act.

27. CNCHD is liable for its willful violation of the equal pay act and damages arising thereunder consistent with 29 USC § 216.

III. DAMAGES

28. Plaintiff hereby restates and realleges all statements set forth in the paragraphs above.

29. CNCHD is liable to Dr. Kelly Weidenbach for damages, including without limitation the following:

- a. Unpaid wages;
- b. Liquidated damages equal to unpaid wages;
- c. Attorneys fees and costs;
- d. Other damages available under the Equal Pay Act.

IV. PRAYER FOR RELIEF


WHEREFORE, Plaintiff Dr. Kelly Weidenbach requests that Judgment be entered in her favor and against the Defendant Casper-Natrona County Health Department in an amount to be proven at trial sufficient to compensate Plaintiff for her damages:

1. Damages for willful violation of the Equal Pay Act;
2. Litigation costs and attorney's fees;
3. All other damages available under federal law;
4. Other damages available under Wyoming law;
5. An award of such other equitable remedies or relief as the Court finds just and proper.

V. JURY DEMAND

Plaintiff hereby demands a six-person jury trial on all issues triable to a jury by filing this action in conjunction with the requisite fee.

DATED this 20th day of January, 2020



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